

City of Chicago Richard M. Daley, Mayor

Board of Ethics

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Room 303 320 North Clark Street Chicago, Illinois 60610 (312) 744-9660 January 8, 1992

C-O-N-F-I-D-E-N-T-I-A-L



Re: Case No. 91088.I ADVISORY OPINION

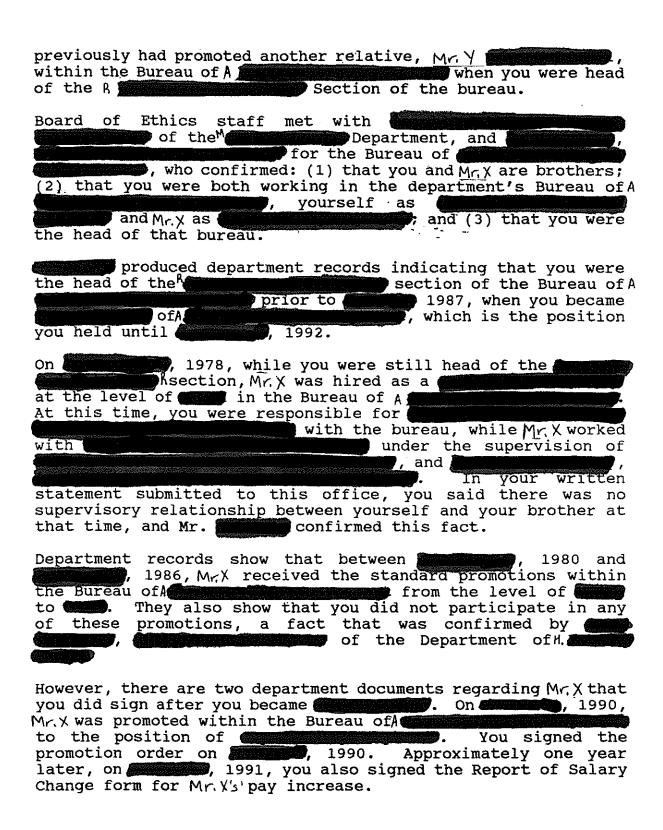
Dear :

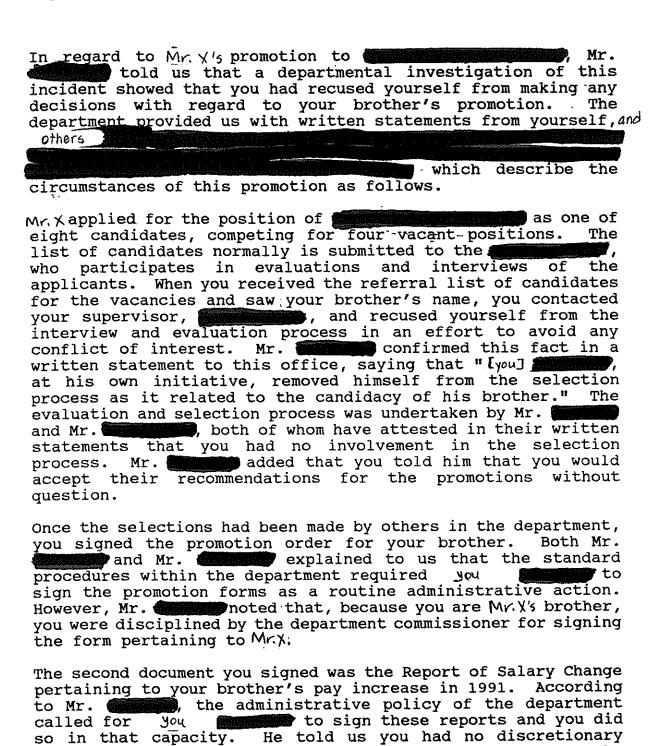
you know, the Board of Ethics has investigating a complaint alleging that improperly promoted relatives within the Bureau of A Department of M in violation of the City of Chicago's Governmental Ethics Ordinance. Please be advised that we have completed our investigation of these allegations and have concluded the following: (1) although you were not acting in compliance with the Ordinance when you signed the 1990 promotion order and the 1991 change of salary report for your brother, Max Board is recommending to department officials that no sanctions be imposed against you; (2) because there is evidence to no substantiate allegation that you were promoting your brother to this charge has dismissed; and (3) because there is no familial relationship between you and Mr. Y allegation that you promoted another relative is also dismissed.

The Board appreciates your cooperation in this matter. Additionally, we commend the department's officials for their prompt response to our request for documents and information. It was essential for the timely resolution of this investigation. This advisory opinion presents the facts of the case and the Board's analysis of those facts under the relevant provisions of the Ethics Ordinance.

FACTS: The complaint received by the Board alleged the following: (1) that last year you promoted your brother, Mr.X, from to to promote your brother further to the position of and (3) that you







authority in regard to pay increases for any employee.

increase in question was the standard annual pay raise and the recommendations for these came from the supervisors subordinate to you for in this case, Mr. You signed the 1991 form on the basis of his

your brother as of a had been planned.

of Max's work efficiency. In regard to the pay increases Max received from 1988 to 1990, Mr. signed in your place on the salary change reports. Regarding the general matter of your work relationship with Mr. Y, it is clear that, you had ultimate supervisory authority over the unit in which your brother was assigned. However,  $M_{\kappa}\bar{\chi}$  has never been under your direct supervision. Through the period of time involved in this case, the levels of supervision in the Bureau of A were as follows: the #5 position Mr.X held until 1990) reported to a #4 (the position to which Mr. X was promoted in 1990), who , who reported to the reported to a #3 , who reported to you #2 ( Once Mr.x was promoted to #4 there were still three supervisory levels between you. Mr. X 's direct supervisor was Mr. the3 reported to Mr. ■ the2 , and he was the one who made any employment decisions directly relevant to Max. All employee performance evaluations were reviewed and signed by Mr. , who reported in turn to you. The second charge in this case alleged that you were preparing to promote your brother to the position of 19 The Board could find no evidence to indicate that any such promotion was planned. To the contrary, we found that Department of M was being and that restructured was responsible for personnel changes. In the planned reorganization, Hr.X "Bureau the of B had been slated to be in Mr. told us this would have been a lateral move for and his title would have remained that of #4 according to the restructuring, the Bureau of 3 Further, is organizationally separate from the one in which you had been assigned. You were designated as of the "Office of MY. said

As a result of the complaint received by the Board, however,  $M_{V}$ ,  $\chi$  was transferred by Mr. On 1991 to the Bureau of D a bureau over which you had no

there would have been no reporting relationship between you and

as your reassignments then

supervising control. Mr. stated that this action was taken "to assure that there is no appearance of impropriety on the part of the Department."

As to the third allegation, that you previously had promoted another relative,  $M_{\ell'}$  when you were head of the when you are in any way related to  $M_{\ell'}$   $M_{\ell'}$  told us there is nothing in departmental files to indicate the existence of any familial relationship, and you have stated that  $M_{\ell'}$   $M_{\ell'}$  is in no way related to you.

LAW AND ANALYSIS: The applicable section of the Governmental Ethics Ordinance to this situation is section 2-156-130, "Employment of Relatives," which states in relevant part:

(a) No official or employee shall employ or advocate for employment, in any City agency in which said official or employee serves or over which he exercises authority, supervision, or control, any person (i) who is a relative of said official or employee, or (ii) in exchange for or in consideration of the employment of any of said official's or employee's relatives by any other official or employee.

Section 2-156-010(w) of the Ordinance defines "relative" to include a brother.

In a past decision, the Board determined that the term "employ" in section 2-156-130(a) refers not only to the act of hiring but also to the ongoing supervision of an employee by a relative (case no. 89094.A). The purpose of this section is to prohibit favoritism of all kinds towards relatives, not only in hiring decisions, but in a broader range of employment issues, including employee evaluations, promotions, and salary increases.

The facts show that you and Mr. (are in fact brothers, which makes you subject to section 2-156-130(a) of the Ethics Ordinance. They also reveal that you signed the order that promoted Mr. (to in 1990 and the form approving his salary increase in 1991. The fact that you both worked in the same bureau does not, in itself, constitute a violation of the Ethics Ordinance. As previously stated, the Ordinance prohibits situations in which one relative supervises another relative, including involvement in employee evaluations, promotions, and salary increases. Once you became

head of the Bureau of head of an immediate supervisor. Nevertheless, the facts show that you exercised supervisory responsibility when you signed the two documents pertaining to him.

In regard to the signing of the salary change report, there is no evidence to show that you exercised any influence to affect the annual salary increases to be received by your brother. On the salary change reports submitted for Mr. & between 1987 and 1990, Mr. signed off in your place. On the Report of Salary Change submitted for 1991, you signed the form on the certification of basis of Mr. Mr. X's work efficiency. According to Mr. ..., you signed the form in your capacity as and your involvement in the pay increase did not extend beyond the administrative act of signing the report. While your signing this form was not in compliance with the Ethics Ordinance, there is no evidence to indicate that you had any discretionary authority to affect the standard departmental salary increases, or that you attempted in any way to affect those increases in regard to your brother.

Aside from your signing of these two documents, which appears to involve only the execution of standard departmental procedures, there is no evidence to indicate that you ever participated in any employment decision concerning your brother. There is nothing to suggest that you ever reviewed or rated your brother in the annual employee performance evaluations conducted by the department, or that you attempted to influence those evaluations in any way. In view of these particular facts, the Board concludes that, while your conduct in signing the two forms in question violates the Ordinance, that violation is mitigated by the circumstances in this case, and therefore, no further action should be taken against you.

Concerning the other two allegations made in this case—that you were preparing to promote your brother to the position of another relative, Mr. \ Section of the bureau—the Board finds no evidence to substantiate either claim. The facts as we know them indicate that (1) no further promotion of Mr. x had been proposed and (2) no familial relationship exists between yourself and Mr. Y Therefore, these charges have been dismissed by the Board.

conclusion: The Board determines that your signing of the order on 1990 that promoted your brother, Mr.X, to within the Bureau of A as well as your signing of the salary change report for Mr. Y on 1991, were violations of Section 2-156-130(a) of the Governmental Ethics Ordinance. However, based on the totality of circumstances in this particular case, it is the Board's recommendation to Department of Months officials that no action be taken against you because you did not attempt to influence any departmental decisions in favor of your brother and, in fact, attempted to comply with the Ordinance by recusing yourself from the promotion process.

Thank you again for your assistance in helping to bring this matter to a close. We appreciate your willingness to follow the standards embodied in the Ethics Ordinance. We enclose the

¹ The Board's determination is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented here are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Please be advised that other rules or laws may also be applicable.